

REMARKS/ARGUMENTS

Claims 16, 17, and 27-29 were examined, with claims 1-15 and 18-26 having been withdrawn pursuant to a restriction requirement. The withdrawn claims have now been canceled. The examined claims have been amended as noted above. Re-examination and reconsideration of the claims, as amended and in view of the following remarks, are respectfully requested.

Applicants have provided a new abstract as required.

The rejection of claims 27-29 is respectfully traversed. The phrase "a valved port" which was objected to was in fact deleted from claim 27 in the Preliminary Amendment filed on June 19, 2003. Thus, the rejection is no longer applicable.

All examined claims were rejected as being anticipated by U.S. Patent No. 5,797,933 to Snow et al. Such rejections are respectfully traversed.

Applicants believe that the Examiner has misconstrued the teachings of Snow et al. Snow et al. is directed at performing heart bypass procedures by, for example, anastomotically attaching bypass grafts between different points on a coronary artery. While Snow et al. does rely on a "port 702" for accessing the heart, the port **never passes through the heart wall** as required by independent claim 16 herein. See, e.g. Col. 74, line 12 where it is taught that the port is introduced through intercostal spaces 703 of the patient's chest, i.e., spaces between the patient's ribs. Moreover, it is noted that these procedures are performed while "cardiopulmonary bypass (CPB) is established to support the patient's circulatory system during the surgical procedure." Col. 74, lines 8-10. Thus, the patient's heart has been **stopped**, contrary to the requirements of claim 16 herein where the heart "remains beating." Finally, Applicants note that the Examiner has characterized Snow et al. as showing "a device having all the limitations of claims 16-17." Applicants respectfully point out that all claims examined herein are method claims, not device claims.

With this background in mind, it can be seen that the teachings of Snow et al. '933 relied on by the Examiner rejecting the present claims are irrelevant to the present claims. Claim 16, the only independent claim examined, requires that a port be **inserted into a chamber of the**



Appl. No. 09/881,045
Amdt. dated February 17, 2004
Reply to Office Action of August 27, 2003

PATENT

heart while the heart is beating. Both these limitations are contrary to Snow et al. where the port 702 is never inserted into a heart chamber and anastomosis is performed while the heart is on bypass; i.e., the heart is **not beating**. Thus, Snow et al. never teaches how to access the interior of the heart chamber from the exterior of the heart chamber, as also required by claim 16.

The dependent claims further distinguish Snow et al. Claim 17 requires that the port be secured in an atrial wall to access the heart's interior. Again, Snow et al. does not teach placement of the port in any heart wall, much less securing the port in the atrial wall. Dependent claim 27 further sets forth that a stapling device is used to position staples into at least a portion of the mitral valve annulus. As Snow et al. does not enter the interior of the heart, it can hardly be used to place staples into a mitral valve annulus. Moreover, the requirement of claim 28 that the staples be connected with a strip of material is nowhere remotely suggested in Snow et al., nor is the requirement of claim 29 that the staples be placed into the posterior mitral annulus.

For these reasons, Applicants respectfully request that the rejection of claims 16-17 and 27-29, the only remaining pending claims, be withdrawn and that the application be passed to issue at an early date.

Respectfully submitted,

Date: 2/17/2004

University of Maryland, Baltimore
Office of Research and Development
515 W. Lombard Street, 4th Floor
Baltimore, MD 21201
Telephone: (410) 706-1933
Facsimile: (410) 706-1066

Aaron D. Adams
Aaron D. Adams
Registration Number: 50,278